

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS**

**United States of America,**

**Plaintiff,**

**v.**

**Case No. 10-20077-02-JWL  
14-2475-JWL**

**Samuel Barajas,**

**Defendant.**

**MEMORANDUM & ORDER**

In September 2011, defendant Samuel Barajas was convicted by a jury of conspiracy to distribute more than 500 grams of methamphetamine; aiding and abetting possession with intent to distribute 50 grams or more of methamphetamine; and using a communication facility (a cellular telephone) in committing, causing and facilitating the conspiracy. The court sentenced Mr. Barajas to life in prison. After the appeal process, Mr. Barajas filed a petition to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. While the court denied or dismissed most claims asserted in the petition, the court granted an evidentiary hearing on Mr. Barajas's claim that his trial counsel provided ineffective assistance in connection with Mr. Barajas's decision to proceed to trial rather than enter a plea of guilty. The court appointed counsel to represent Mr. Barajas in connection with that evidentiary hearing, which is presently set for October 13, 2015.

Mr. Barajas' trial counsel has since been suspended from the practice of law in the District of Kansas and the reasons for his suspension are sealed. To assist in preparing for the evidentiary hearing, Mr. Barajas has moved for the "protected disclosure" of sealed documents

(doc. 141) relating to the suspension of his trial counsel so that Mr. Barajas may ascertain whether any information in the disciplinary file might support Mr. Barajas's claims. The court previously determined that Mr. Barajas's trial counsel was the only person with standing to object to Mr. Barajas's request, and his trial counsel has not responded to the motion for protected disclosure despite notice and the opportunity to do so. The court, then, presumes that trial counsel has no objection to the protected disclosure of sealed documents to counsel for Mr. Barajas.

For the foregoing reasons, the court grants the motion for protected disclosure of sealed documents and will direct the Clerk of the Court to disclose to counsel for Mr. Barajas and counsel for the government a copy of trial counsel's disciplinary records for the limited purpose of preparing for and presenting evidence or argument at the evidentiary hearing described herein. Counsel for both parties are prohibited from disclosing or disseminating any information from these records to any other persons except for their clients and other counsel who may be required to assist in connection with the evidentiary hearing. At the conclusion of the evidentiary hearing, the court will discuss the parties' obligations with respect to returning or destroying each party's copy of trial counsel's disciplinary records.

**IT IS THEREFORE ORDERED BY THE COURT THAT** Mr. Barajas's motion for the protected disclosure of sealed documents (doc. 141) is **granted**.

**IT IS FURTHER ORDERED BY THE COURT THAT** the Clerk of the Court shall provide to counsel for both parties a copy of the records contained in the disciplinary case file

requested by Mr. Barajas as soon as practicable. Toward that end, counsel for the parties are directed to initiate contact with the Clerk of the Court to discuss the form (electronic or hard copy) in which counsel desires the records.

**IT IS SO ORDERED.**

Dated this 11<sup>th</sup> day of September, 2015, at Kansas City, Kansas.

s/ John W. Lungstrum  
John W. Lungstrum  
United States District Judge